

Sixth Appellate District

San Jose, California

MONDAY, OCTOBER 20, 2003

H025549 RIDINO v. COUNTY OF SANTA CRUZ, et al.

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Bamattre-Manoukian, J.)
Filed October 20, 2003

H024940 GALLOWAY v. GALLOWAY

The order filed June 23, 2002, is reversed insofar as it rescinds the trust agreement dated May 1998 and the grant deed dated May 22, 1998 and insofar as it awards continuing temporary spousal support of \$3,145. The case is remanded for a recalculation of support. Wife's motions to strike parts of Husband's briefs are denied. Each party to bear his and her own costs on appeal (not published)
(Bamattre-Manoukian, J.; We concur: Rushing, P.J., Premo, J.)
Filed October 20, 2003

TUESDAY, OCTOBER 21, 2003

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Premo, Acting P.J.; Elia, J.; Bamattre-Manoukian, J.; and J. Michel Casique, Deputy Clerk.

H025117 PEOPLE v. MACNAMARA

Cause called and argued by Douglas C. Kane appearing for Appellant and by Bridget Billeter, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024478 PEOPLE v. GALARZA

Cause called and argued by Victor Morse appearing for Appellant and by Sharon R. Wooden, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H024810 PEOPLE v. PERRELL

Cause called and argued by John L. Williams appearing for Respondent and by Stanley R. Voyles, Deputy District Attorney, appearing for Appellant. Cause ordered submitted.

H024928 In re ADRIAN S.; VARA v. THE PEOPLE

Cause called and argued by Gerald Clausen appearing for Appellant and by Micheal L. Rossi, Deputy County Counsel, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, October 21, 2003 (continued)

H024929 In re JAMES R.; VARA v. THE PEOPLE

Cause called and argued by Gerald Clausen appearing for Appellant and by Michael L. Rossi, Deputy County Counsel, appearing for Respondent. Cause ordered submitted.

H024882 SHAHRIVAR v. AGHEVLI

Cause called and argued by Neil Ison appearing for Appellant and by Thomas R. Hogan appearing for Respondent. Cause ordered submitted.

Bamattre-Manoukian, J. and Premo, Acting P.J. leave the bench and Wunderlich, J. and Mihara, J. take the bench.

H025292 In re COBY B.; DFCS v. LORI B., et al.

Cause called and argued by Robert J. Masterson, Deputy District Attorney, appearing for Appellant; Robert R. Powell appearing for Respondents and Teri L. Robinson, Deputy County Counsel, appearing for Appellant. Cause ordered submitted.

Elia, Acting P.J. leaves the bench and Rushing, P.J. takes the bench.

H025352 CARSON v. CABRILLO COLLEGE GOVERNING BOARD, et al.

Cause called and argued by Richard E. Damon appearing for Appellant and by Mark E. Davis appearing for Respondents. Cause ordered submitted. Court recesses until 1:30 p.m.

H024781 PEOPLE v. CADLE

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)
Filed October 21, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.
Present: Premo, Acting P.J.; Elia, J.; Bamattre-Manoukian, J.; and S. Nasson, Deputy Clerk.

H025197 In re UNIQUE R.; DFCS v. SUSANA S.

Cause called and argued by Frank Dougherty appearing for Appellant and by Teri Robinson, Deputy County Counsel, and Heather Burns, Deputy District Attorney, appearing for Respondents. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, October 21, 2003 (continued)

H024684 MIGDAL v. PATEL, et al.

Cause called and argued by Russell Hanlon appearing for Appellant and by Stephen Garrish appearing for Respondents. Cause ordered submitted.

H024243 GUTIERREZ, et al. v. PCH ROULETTE, INC.

H024680 GUTIERREZ, et al. v. PCH ROULETTE, INC., et al.

Cause called and argued by Michael Morrissey appearing for Appellant and by Sharon Kinsey appearing for Respondents. Cause ordered submitted.

H024312 BROWNE v. ASSURED AGGREGATES COMPANY, INC., et al.;
LIBERTY MUTUAL INSURANCE GROUP

Cause called and argued by Roy Weatherup appearing for Appellants and by Charlotte Costan appearing for Respondent. Cause ordered submitted. Court adjourns.

H025623 In re K.B.; DFCS v. G.B.

The court's orders of January 9, 2003, are affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed October 21, 2003

H025274 PEOPLE v. VALDEZ

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed October 21, 2003

Sixth Appellate District

San Jose, California

Tuesday, October 21, 2003 (continued)

H023308 PEOPLE v. LUGO, et al.

The judgment is modified in the following respects: (1) the section 12022.53, subdivision (c) enhancement imposed upon Lebya is stricken; (2) the 10 year gang enhancement imposed upon Lebya under section 186.22 is ordered stricken and the 15 year minimum parole eligibility of section 186.22, subdivision (b)(5) imposed instead; and (3) the \$11,400 restitution fine imposed upon Lugo is reduced to \$10,000. The trial court is directed to amend the abstract of judgment accordingly and forward a certified copy of the amended abstract to the Department of Corrections. As modified, the judgments of conviction are affirmed. (not published)

(Rushing, P.J.; I concur: Premo, J.; Concurring and Dissenting opinion by Bamattre-Manoukian, J.)

Filed October 21, 2003

WEDNESDAY, OCTOBER 22, 2003

H025281 PEOPLE v. QUINTERO

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed October 22, 2003

H023584 PEOPLE v. MODIRI

By the Court*:

Appellant's and respondent's petitions for rehearing are denied.

Filed: October 22, 2003

*Before Bamattre-Manoukian, Acting P.J., Wunderlich, J. and Mihara, J.

H025228 PEOPLE v. RUSSELL

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)

Filed October 22, 2003

H021125 PEOPLE v. LEILEI, et al.

By the Court*:

Appellant Tevaga's petition for rehearing is denied.

Filed: October 22, 2003

*Before Rushing, P.J., Bamattre-Manoukian, J. and Wunderlich, J.

Sixth Appellate District

San Jose, California

Wednesday, October 22, 2003 (continued)

H025788 In re ESPERANZA H.; DFCS v. MARGARITA H.

The judgment is reversed. The juvenile court is directed to order the Department to provide the appropriate notification under the ICWA and hold a new hearing under Welfare and Institutions Code section 366.26. But if, after the Department gives notice under the ICWA, no tribe indicates that Esperanza is an Indian child within the meaning of the ICWA, then the juvenile court shall reinstate the judgment. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 22, 2003

H025185 PATEL v. PATEL, et al.

The judgment is affirmed. Respondents are awarded costs on appeal. (not published)
(Wunderlich, J.; We concur: Rushing, P.J., Mihara, J.)
Filed October 22, 2003

H024365 PEOPLE v. ALDANA

The judgment is modified to stay the term imposed for the terrorist threat in count 7 pursuant to Penal Code section 654. In all other respects, the judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 22, 2003

H024835 GUDE v. CEO INTERACTIVE.COM, INC.

The judgment is affirmed. (not published)
(Wunderlich, J.; We concur: Rushing, P.J., Mihara, J.)
Filed October 22, 2003

THURSDAY, OCTOBER 23, 2003

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Bamattre-Manoukian, J.; and Jane Valdez Flor, Deputy Clerk.

H024434 PEOPLE v. ANTUZZI

Cause called and argued by Alexander Lambrous appearing for Appellant and by Margo J. Yu, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Thursday, October 23, 2003 (continued)

H023829 PEOPLE v. JAHN

Cause called and argued by George Schraer appearing for Appellant and by Stan Helfman, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H025267 COUNTY OF SANTA CLARA, et al. v. BURGER, et al.

Melissa Kiniyalocts, Deputy County Counsel, appears on behalf of respondent and Ron and Jennifer Burger, appellants, appear in propria persona. Cause is submitted without argument.

Bamattre-Manoukian, J. leaves the bench and Wunderlich, J. takes the bench.

H022292 PEOPLE v. ATCHERLEY

Cause called and argued by Lori D. Klein appearing for Appellant and by Rene A. Chacon, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Rushing, P.J. leaves the bench and Bamattre-Manoukian, J. takes the bench.

H025406 PEOPLE v. SUPERIOR COURT; ANDRADES

Cause called and argued by Seth Flagsberg, Deputy Public Defender, appearing for Real Party in Interest and by Neal J. Kimball, Deputy District Attorney, appearing for Petitioner. Cause ordered submitted.

H025428 PEOPLE v. SUPERIOR COURT; ANDRADES

Cause called and argued by Seth Flagsberg, Deputy Public Defender, appearing for Real Party in Interest and by Neal J. Kimball, Deputy District Attorney, appearing for Petitioner. Cause ordered submitted.

H025513 PEOPLE v. SUPERIOR COURT; BEAVERS

Cause called and argued by Seth Flagsberg, Deputy Public Defender, appearing for Real Party in Interest and by Neal J. Kimball, Deputy District Attorney, appearing for Petitioner. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Thursday, October 23, 2003 (continued)

H0255569 PEOPLE v. SUPERIOR COURT; FISHER

Cause called and argued by Seth Flagsberg, Deputy Public Defender, appearing for Real Party in Interest and by Neal J. Kimball, Deputy District Attorney, appearing for Petitioner. Cause ordered submitted. Court is adjourned.

H025312 PEOPLE v. RIVERA

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 23, 2003

H022521 PEOPLE v. UGARTE

The judgment is reversed. (not published)
(Wunderlich, J.; We concur: Rushing, P.J., Premo, J.)
Filed October 23, 2003

H022750 MOLES v. GOURLEY, as Director, etc.

The judgment is reversed. The cause is remanded to the trial court, which is directed to deny Moles's petition for writ of mandate and reinstate the DMV's July 2000 suspension order. The DMV shall recover its costs on appeal. (published)
(Wunderlich, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed October 23, 2003

H025277 PEOPLE v. HALL

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed October 23, 2003

H024035 PEOPLE v. TABAREZ

(Filed order modifying opinion.) Appellant's petition for rehearing is denied. There is no change in the judgment. (not published)
(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)
Filed October 23, 2003

FRIDAY, OCTOBER 24, 2003

H025475 PEOPLE v. PEREZ

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Wunderlich, J., Mihara, J.)
Filed October 24, 2003

Sixth Appellate District

San Jose, California

Friday, October 24, 2003 (continued)

H025197 In re U.R., et al.; DFCS v. SUSANA S.

The disposition orders of October 30, 2002, are affirmed.
(not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed October 24, 2003

H025334 ETHERIDGE v. SUPERIOR COURT; PEOPLE

Let a peremptory writ of mandate issue directing respondent court to vacate its order denying petitioner's motion for discharge from probation and to enter a new order granting the motion and discharging petitioner from probation. Upon finality of this decision, the previously issued temporary stay order is vacated. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed October 24, 2003

H024478 PEOPLE v. GALARZA

The judgment is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed October 24, 2003

H025600 LEMPERT v. SUPERIOR COURT; CAMPBELL, et al.

Let a peremptory writ of mandate issue directing respondent court to vacate its February 5, 2003 order denying petitioner's motion to withdraw as attorney of record for defendant, and to enter a new order granting the motion. Upon finality of this decision, the previously issued temporary stay order is vacated. (published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed October 24, 2003

H024684 MIGDAL v. PATEL, et al.

The judgment in favor of Patel is affirmed. The post-judgment order awarding attorney's fees to Patel is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed October 24, 2003

Sixth Appellate District

San Jose, California

Friday, October 24, 2003 (continued)

H024243 GUTIERREZ, et al. v. PCH ROULETTE, INC.

H024680 GUTIERREZ, et al. v. PCH ROULETTE, INC.

The judgment and the post-trial attorney fee award are affirmed. Customers are entitled to costs on appeal. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed October 24, 2003

H024312 BROWNE v. ASSURED AGGREGATES COMPANY, INC., et al.

The judgment is affirmed. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed October 24, 2003